



CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

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Via Email:

mawong@waterboards.ca.gov

Ms. Pamela Creedon,
Executive Officer
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Re: *Tentative Monitoring and Reporting Program Order No. R5-2008-_____ for Coalition Groups Under Amended Order No. R5-2006-0053, Central Valley Regional Water Quality Control Board*

Dear Ms. Creedon:

The California Farm Bureau Federation ("Farm Bureau") appreciates the opportunity to comment on the Technical Monitoring and Reporting Program for Coalition Groups Under Amended Order No. R5-2006-0053 ("tentative MRP"). Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose it to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing roughly 91,000 members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

Many Farm Bureau members located throughout the Central Valley participate in Coalition Groups and are therefore regulated under the Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R5-2006-0053 ("Irrigated Lands Program").) As such, Farm Bureau members will be directly impacted by the tentative MRP and the requirements contained therein. Overall, Farm Bureau does not take issue with the monitoring requirements proposed and defers to the Coalition Groups with regards to specific requirements. However, Farm Bureau finds it necessary to raise certain policy issues that are directly linked to the monitoring program, the data collected and the potential application of the data once collected. In particular, Farm Bureau continues to be concerned with the Central Valley Regional Water Quality Control Board's ("Regional Water Board") interpretation and

application of the tributary statement and the State Water Resources Control Board's ("State Water Board") Sources of Drinking Water Policy (State Board Resolution 88-63 ("Resolution 88-63")) to designate beneficial uses for agriculturally dominated waterways.

With regard to the "tributary statement," the Regional Water Board has previously stated that it does not intend to not use the tributary statement to determine beneficial uses for constructed agricultural drains and other non-stream tributaries. However, Farm Bureau finds little comfort in this position considering the Regional Board's narrow interpretation of what constitutes a constructed agricultural drain. (See Regional Board Resolution No. R5-2005-0137 Information Sheet.) It is our understanding that the Regional Water Board limits its definition of what constitutes a "constructed agricultural drain" to a "man-made agricultural drainage facility designed for drainage purposes" and does not consider modified stream corridors as being "constructed agricultural drains." (See Order WQO 2002-0016 In the Matter of the Review on Own Motion The City of Turlock at p. 5.) Based on this narrow definition, there are thousands of miles of agriculturally dominated waterways the Regional Water Board does not consider to be "constructed agricultural drains." In such cases, the Regional Water Board utilizes the "tributary statement" to designate beneficial uses based uses that are designated for downstream water bodies. When the beneficial uses of the downstream water do not appropriately apply to its upstream tributary, the Regional Water Board proposes to resolve the inappropriate designations by requiring individual farmers, not the regulatory agencies, to undertake expensive and lengthy scientific studies to prove that non-existent "beneficial uses" actually do not exist. Farm Bureau is fundamentally opposed to the Regional Water Board's interpretations and application the "tributary statement" as it most certainly will result in massive burdens being foisted on its members as implementation of the Irrigated Lands Program continues to expand.

Also, Farm Bureau disagrees with the Regional Boards refusal to apply the agricultural exceptions that are part of Resolution 88-63 without a formal Basin Plan amendment. Because of this interpretation, thousands of miles of agriculturally dominated waterways are considered to be potential sources of municipal and domestic drinking water (i.e. MUN). In adopting Resolution 88-63, the State Water Board expressly recognized the problem subsequently created by the Regional Water Board and expressly directed the Regional Water Boards not to apply the "MUN" beneficial use to agricultural drainage facilities. To comply with this direction, the Regional Water Board explicitly incorporated language into the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins ("Basin Plan") that states, "the Regional Board will apply the exceptions listed in Resolution 88-63." (Basin Plan at II-2.00.) However, the Regional Water Board has subsequently determined to ignore the impact and significance of this language.


The potential detrimental impacts of the Regional Water Board's decisions regarding the designation of beneficial uses to the Irrigated Lands Program are two-fold. First, based on the Regional Water Board's interpretations individual farmers and ranchers may be forced to pursue

Basin Plan amendments for potentially thousands of agricultural drainage facilities to designate MUN and other inappropriate beneficial uses. The administrative burden and cost of amending the Basin Plan for all of the potentially impacted water bodies is unfathomable.

Second, the designation of beneficial uses drives the application of water quality objectives to the water bodies in question. Under the tentative MRP, when monitoring results show exceedances of water quality objectives or trigger limits, the Coalition Groups are required to submit exceedance reports and prepare Management Plans for the constituent(s) of concern. (Tentative MRP at pp. 23-24.) To the extent that inappropriate beneficial use designations trigger the improper application of limits and water quality objectives, the Coalitions Groups are required to expend time and resources on preparing and implementing Management Plans that may not be appropriate. By spending time and money to correct water quality problems for uses that do not exist, Farm Bureau members and the Coalition Groups are prevented from spending valuable resources on actual water quality concerns for existing uses.

To address these primary policy concerns, Farm Bureau encourages the Regional Water Board and its staff to use common sense and reasonableness in its interpretation and application of Basin Plan policies to agriculturally dominated waterways. We firmly believe that the Regional Water Board has the discretion and authority to work with Farm Bureau and Coalition Groups to collectively determine beneficial uses, and resulting applicable trigger limits, for agriculturally dominated waterways that are subject to the Irrigated Lands Program requirements. Farm Bureau looks forward to continue participating in the implementation of the Irrigated Lands Program with the Coalition Groups and the Regional Water Board. If you have any questions, please feel free to contact me directly in regard to this matter at 916-561-5660.

Very truly yours,



Christian C. Scheuring
Managing Counsel

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